

## Message

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August 3, 2021

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# Brownfields/Superfund/Other Cleanups + Redevelopment

## Senate Infrastructure Bill Reinstates, Expands Superfund Taxes.

Inside EPA (8/2) reports, "The bipartisan Senate infrastructure bill is seeking to pay for its \$1.2 trillion price tag in part by reinstating and increasing the tax rate for two types of Superfund taxes on chemical manufacturers while also lowering the threshold for one of the two taxes, making it more broadly applicable."

## EPA Plan For Telluride Mine Tailings Raises Doubts.

Colorado Sun (8/2, Blevins) reports the EPA plans "to haul about 30,000 cubic yards of toxic tailings" from public land on Telluride's "beloved Valley Floor" to "to a repository for mine waste at the Idarado mill on the east end of the valley." EPA contractors "will be driving six to eight trucks an hour from one side of Telluride to the other for the next three or four months" through the downtown, "driving no faster than 7 mph...and washing the trucks after they have emptied the tailings at the repository and before they drive back." Telluride locals have expressed doubts about the plan's timing and competence, however.

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# Climate Change

## **Carbon Capture Inclusion In Infrastructure Bill, Reconciliation Measure Pleases Advocates.**

Bloomberg BNA (8/2, Scott) reports, "Carbon capture backers got almost everything they wanted in the bipartisan infrastructure bill moving in the Senate, and say another win is possible by expanding federal incentives in a budget reconciliation measure around the corner." The SCALE Act, "tacked onto the \$550 billion infrastructure bill," is "touted as the biggest effort to date for scaling up projects that capture and store carbon dioxide." The reconciliation measure would make it easier "for projects to monetize the value of the carbon capture credit immediately, through a 'direct pay' option," reducing "the need for expensive outside tax equity financing typically required for such projects."

## **Biden Facing Scrutiny From Various Groups As He Prepares To Announce New Fuel Efficiency Standards.**

The Wall Street Journal ([\*Request Article\*](#)) (8/2, Ferek) reports the Biden Administration likely will announce more rigid fuel efficiency standards for new automobiles and light trucks "as early as this week, fulfilling a pledge to reset tailpipe-emission limits eased by former President Donald Trump." But if those standards aren't strict enough, President Biden faces a possible backlash from those who argue drastic action is necessary to slow greenhouse gas emissions that drive climate change.

## **Boulder County, CO Sues ExxonMobil, Suncor Over Their Roles In Climate Change.**

The Guardian (UK) (8/2, McGreal) reports the Boulder County, Colorado government is suing ExxonMobil and Suncor for allegedly covering up warnings from climate scientists about the environmental impacts of fossil fuels and is seeking to force the companies to compensate the county for the damages it has suffered due to climate change.

## **GHG Rule Could Face Court Challenges.**

E&E Publishing (8/2, Joselow) says, "When the Biden administration proposes its anticipated new greenhouse gas rule for power plants, it will be one of the most consequential climate regulations in the United States." The EPA "must avoid the pitfalls that plagued the regulation's predecessors, legal experts say." A major potential obstacle is "the definition of the 'best system of emission reduction' under the Clean Air Act."

## **EPA Ban On "Byproduct" Refrigerant Emissions Under OMB Review.**

Inside EPA (8/2) reports, "EPA has sent a proposed measure to ban 'byproduct' emissions of the refrigerant hydrofluorocarbon (HFC)-23 for White House Office of Management and Budget (OMB) pre-publication review, as part of the larger drive to phase-down use of climate-warming HFCs. According to OMB's website, EPA July 26 sent its proposed rule on 'Standards Related to Feedstock Production of Class II Ozone-Depleting Substances' for review. OMB review is the final step before publication of a measure in the Federal Register."

## Editorial/Op Ed/ Commentary/Letters

### **Crystal And Cohen: Utilities Should Be Held Accountable For Evading Environmental Responsibility.**

Writing for *Utility Dive* (8/2), Howard Crystal and Illana Cohen of the Center for Biological Diversity's Energy Justice program argue that many players in the U.S. utilities sector "refuse to embrace the reality of today's climate emergency." Crystal and Cohen contend that "even as U.S. utilities present themselves as climate leaders, some are actually working to protect their fossil fuel investments and infrastructure, even with the urgent need for a renewable energy transition." Crystal and Cohen write that "there are clear models for establishing utility climate risk disclosure requirements, including the leading recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures." Adopting such recommendations, they argue, would "force utilities to report on how their governance structures, strategies and risk management approaches address climate threats – and the opportunities presented by the vital clean energy transition."

### **Gessing: Natural Gas Bans Will Contribute To Already Unstable Energy Environment.**

In an op-ed for the *National Review* (8/2), Rio Grande Foundation President Paul Gessing writes that "natural gas is a clean and affordable fuel used by millions of Americans every day to cook, heat water, and provide warm homes in the winter." But environmentalists are looking to rid homes of these gas-powered appliances, he says, and many cities are adopting natural gas bans in new construction. Gessing argues that "electrification will likely mean putting all your energy eggs in one very unstable 'basket,'" especially "considering that reliability and demand issues are already facing the Western United States this summer."

## Energy Issues

### **Senate Begins Considering Amendments To Bipartisan Infrastructure Bill.**

*Reuters* (8/2, Cowan, Morgan) reports the Senate on Monday "began voting on amendments to the 2,702-page" \$1 trillion infrastructure bill with an eye on completing work on the measure this week. But "battles already were shaping up." On Monday, "three Republican senators – John Cornyn [TX], Rick Scott [FL] and Martha Blackburn [TN] – criticized the infrastructure bill, saying they had inadequate time to consider it and taking issue with one of the ways it would be financed."

The AP (8/2, Freking, Mascaro) reports that the bill “calls for \$550 billion in new spending over five years above projected federal levels, what could be one of the more substantial expenditures on the nation’s roads, bridges, waterworks, broadband and the electric grid in years.” The bill “is expected to provide \$110 billion for roads and bridges, \$39 billion for public transit and \$66 billion for rail” as well as “\$55 billion for water and wastewater infrastructure” and “billions for airports, ports, broadband internet and electric vehicle charging stations.”

***Infrastructure Bill Contains Limited Funding For Power Grid Modernization, EV Charging.***

The New York Times (8/2, Cochrane, Flavelle) reports that bipartisan \$1 trillion infrastructure bill the Senate took up on Monday includes \$73 billion “to modernize the nation’s electricity grid,” but it contains only a fraction of the funds President Biden “requested for major environmental initiatives and extends a lifeline to natural gas and nuclear energy, provisions that have angered House progressives.” The bill also includes “\$7.5 billion for clean buses and ferries, but that is not nearly enough to electrify about 50,000 transit buses within five years, as Mr. Biden has vowed to do.” Moreover, the bill “includes \$7.5 billion to develop electric vehicle charging stations across the country, only half of the \$15 billion Mr. Biden requested to deliver on his campaign pledge of building 500,000 of them.”

***Bipartisan Bill’s Hydrogen Plan Would Be “Largely Based On Fossil Fuels.”***

Bloomberg (8/2) reports, “Building a hydrogen-based energy system in the U.S., which some analysts call key to fighting climate change, would be based largely on fossil fuels under the bipartisan infrastructure bill.” The bill “provides for \$8 billion in spending to establish at least four ‘regional clean hydrogen hubs’ producing and using the fuel for manufacturing, heating and transportation.” According to the bill, at least two would be in regions “with the greatest natural gas resources.” One “would demonstrate production from fossil fuels, one would use renewable power, and one would use nuclear power. Coal also is listed a potential source.” Bloomberg says these “variations underscore how hydrogen is only as green as the underlying sources and processes used to produce the fuel.”

***Wind And Solar Company CEO Urges Congress To Boost Industry With Infrastructure Plan.***

The Washington Examiner (8/2, Siegel) reports the CEO of San Francisco-based Intersect Power, Sheldon Kimber, “is warning Congress not to ‘squander’ an opportunity to boost his industry, which must scale rapidly to achieve domestic climate goals and catch competitors such as China.” The bipartisan infrastructure agreement moving through the Senate and backed by President Biden “contains billions in funding to scale up emerging clean energy technologies.” Intersect, one of the largest wind and solar developers in the United States, “is poised for growth after developing more than 1.7 gigawatts of solar projects across California and Texas in its first three years of existence.”

**EIA Says Renewable Energy Generation Capacity Exceeded Coal And Nuclear In 2020.**

NPR (8/2, Phillips) reports the EIA released data last week showing that US renewable energy generation accounted for 21% – higher than the share of coal-fired and nuclear generation – of US generation capacity in 2021. Natural gas “still leads as the nation’s top source of electricity, generating 1,617 kWh last year, or about 40% of U.S. power generation.” The shift away from coal “stems from an increase in renewable sources, but also a steep decline in coal usage, which dropped 20% from 2019.”

## **Harder: High Gasoline Prices Could Undermine Support For Clean Energy Transition.**

Axios (8/2) contributor Amy Harder says that cutting oil production before reducing oil demand could lead to higher gasoline prices and undermine support for the transition to clean energy as countries around the world work to address climate change.

## **Infrastructure Bill Would Require Government Study On Job Losses Caused By Keystone XL Cancellation.**

The Hill (8/2, Budryck) reports language “in the bipartisan infrastructure deal released Sunday night would require the government to study how many job losses would be caused by the Biden administration’s revoking of a permit to build the Keystone XL pipeline.” The language “is one of several provisions won by Republicans in the legislation that could provide arguments to use against the administration’s climate policies.” The infrastructure bill “requires the government to conduct a study estimating direct or indirect job losses caused by revoking the pipeline’s authorization over a 10-year period.” The study “must be completed 90 days after the bill becomes law.”

## **Coast Guard And GA Officials Work To Contain Oil Spill Near St. Simons Island.**

The AP (8/2, Bynum) reports Coast Guard and Georgia officials worked Monday to contain an oil spill from a capsized South Korean freighter called the Golden Ray off the coast of St. Simons Island. The freighter “capsized on Sept. 8, 2019, shortly after departing the Port of Brunswick.” Salvage crews “began slicing the ship into giant chunks for removal nine months ago, and they finished cutting away the sixth giant section Friday.” Oil gushed “into the water Saturday when the towering crane straddling the shipwreck began lifting the 4 ton (3.7 metric ton) segment.” Coast Guard Petty Officer 2nd Class Michael Himes “said a second attempt to lift the newly cut-away section Monday morning caused a second leak into the water around the shipwreck.” Crews with boats “and absorbent boom moved quickly to try to contain and suck up the latest spill.”

## **Study Says Proposed Oil Export Terminal Would Be Inconsistent With Louisiana’s Coastal Master Plan.**

The New Orleans Times-Picayune (8/2, Parker) reports a study conducted by New Orleans-based civil engineering firm AECOM that was made public in May says a proposed oil export terminal in Plaquemines Parish would interfere with Louisiana’s Coastal Master Plan for restoring the state’s coastline. The terminal – which was proposed by Tallgrass Energy LP, Drexel Hamilton Infrastructure Partners LP, and the Plaquemines Port, Harbor and Terminal District – would be able to store 20 million barrels of oil and load them onto Panamax barges and ships for export. AECOM’s study was made public as the result of a public record request filed by the environmental group Healthy Gulf, which is urging the Louisiana Coastal Protection and Restoration Authority to cancel the project.

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# HQ Amplification

## **New EPA Science Advisory Board Appointed.**

The Hill (8/2, Frazin) reports EPA Administrator Michael Regan selected the 47 members of the new "Scientific Advisory Board (SAB) after previously firing the board members who had been appointed during the Trump administration." He reappointed six members of the previous board. The board will be chaired by University of Washington Environmental Policy Professor Alison Cullen, and consist of "22 women and 25 men and includes 16 people of color."

Bloomberg BNA (8/2, Lee) also reports.

## **Orme-Zavaleta Talks About Challenges Facing EPA ORD.**

Inside EPA (8/2) reports, "Jennifer Orme-Zavaleta, EPA's outgoing acting science chief and research office head, says she sees a wave of staff retirements and "emerging contaminants" like per- and polyfluoroalkyl substances (PFAS) and novel plastics as the top scientific challenges the agency must confront as it wrestles with evolving approaches to environmental protection."

## **Senate Environment & Public Works Committee To Consider EPA Nominees.**

Inside EPA (8/2) reports, "The Senate Environment & Public Works Committee will consider President Joe Biden's nominees to run EPA's enforcement, waste and mission support offices. White House environment and climate officials are scheduled to speak during an Energy Department forum on environmental justice and other Biden administration policy goals."

## **OLEM Head Nominee Waterhouse Has EJ Background.**

E&E Publishing (8/2, Crunden) profiles Carlton Waterhouse, "whose nomination to oversee the Office of Land and Emergency Management is being taken up by a Senate committee this week." Waterhouse "served as an EPA attorney during the 1990s," and is now a law professor at Howard University and "inaugural director of the school's Environmental Justice Center." Friends "who know Waterhouse outside of his work life described him as a serious, thoughtful person driven by his Christian faith and motivated to help rectify historic wrongs."

## **EPA Gets Grade Of C In Cybersecurity.**

NBC News (8/3, Clark, Thorp) reports "a number of federal agencies are woefully unprepared for cyberattacks, while others 'have not met the basic cybersecurity standards necessary to protect America's sensitive data,' according to a report released Tuesday by the Senate committee overseeing homeland security." The committee "handed out grades for overall cybersecurity practices to all the Cabinet departments and the largest independent federal agencies." The average grade "of the large federal agencies was C-minus." The EPA received a C.



## Rules/Regulations/Policy

### **Senate Infrastructure Bill Includes PFAS, Lead Pipe Funding.**

Inside EPA (8/2) reports, "The Senate is slated to begin debating bipartisan infrastructure legislation that includes targeted funding to treat per- and polyfluoroalkyl substances (PFAS) in drinking water and wastewater, drawing praise from some environmentalists, as well as to remove lead service lines though the funding levels for such replacements fall short of the estimated cost. Senate Majority Leader Chuck Schumer (D-NY) told reporters Aug. 1 that he expects the legislation to clear the Senate by the end of the week."

Bloomberg BNA (8/2, Rizzuto) also reports.

### **Federal Employees, Members Of Public Express Concern Over Reports Of Political Interference In Science.**

CNN (8/2, Holmes) reports, "Federal employees and some members of the public remain concerned over reports of political interference in science, specifically when it came to reporting scientific findings, a Biden administration report reviewing the topic said." Office of Science and Technology Policy Deputy Director Dr. Alondra Nelson "told CNN federal employees appreciate the Biden administration is working to correct things that went wrong under the Trump administration, but concerns remain." These concerns come "at a time where many scientists nationwide are under attack over the handling of the start of the coronavirus pandemic."

### **Court Says EPA Will Face Challenge To Recall Demand.**

Bloomberg BNA (8/2, Carignan) reports the Southern District of New York ruled not to dismiss allegations by Tzumi Innovations LLC that the EPA "arbitrarily and capriciously demanded a recall" of its sanitizing wipes. The company "produced sanitizing wipes in early 2020 in response to high demand for hand sanitizer during the coronavirus pandemic."

## Sustainable and Healthy Communities

### **Groups Aim To Protect Upper Peninsula Forests From Mining, Logging.**

Bridge Magazine (MI) (8/2) reports, "Hoping to seize upon President Joe Biden administration's pro-public lands agenda, a coalition of Michigan environmental groups is mounting a push to shield tens of thousands of acres in the western Upper Peninsula from future logging and other development." The coalition, which calls itself "Keep the U.P. Wild, last month launched a campaign to designate 51,000 acres in the Ottawa National Forest as wilderness — the most stringent level of protection available for

federal public lands.” The groups see it as an “opportunity to protect pristine recreational lands and lock out extractive industries amid high timber prices and anticipated mining pressure fueled by demand for the rare earth minerals used to manufacture electric vehicles, batteries and a host of other products.”

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## Toxics

### **House Armed Services Readiness Subcommittee Approves Block On PFAS Incineration.**

**Inside EPA** (8/2) reports, “The House Armed Services readiness subcommittee has approved measures addressing per- and polyfluoroalkyl substances (PFAS) as part of its portion of the fiscal year 2022 defense authorization bill, including temporarily blocking the Defense Department (DOD) from incinerating PFAS materials until it adopts EPA’s interim guidance on disposal. The subcommittee July 29 passed on a voice vote with bipartisan support its portions of the FY22 National Defense Authorization Act (NDAA) , sending the legislation to the full committee.”

### **Former Official Says EPA Has Enough PFAS Data To Regulate Them.**

**Inside EPA** (8/2) reports former EPA water and toxics official Betsy Southerland “says EPA has enough data on per- and polyfluoroalkyl substances (PFAS) to regulate them as a class under TSCA without waiting for results from its newly announced testing program for the chemicals, and should instead use those tests to aid rules under other statutes.”

### **Coalition Urges Caution With 1-BP Regulation.**

**Inside EPA** (8/2) reports, “A broad industry coalition is warning EPA that it must tread carefully as it moves to list the solvent 1-bromopropane (1-BP) as a hazardous air pollutant (HAP), the first such listing since Congress amended the air act, and that the agency must give facilities that will be subject to new air toxics rules time to get controls in place or find substitutes.”

### **EPA Approves Paraquat Use With New Restrictions.**

**Progressive Farmer** (8/2, Unglesbee) reports the herbicide paraquat “is undergoing EPA’s routine 15-year re-registration review, which the agency began back in 2012.” The EPA released a “finalized interim decision permitting aerial applications” August 1, with new restrictions. The agency “will not have a complete registration decision for paraquat until it conducts its endangered species assessment and an endocrine screening for the chemical.” Center for Biological Diversity Environmental Health Science Director Nathan Donley said in a news release, “It’s extremely disappointing that the Biden EPA is reapproving this dangerous pesticide, which is outlawed across a lot of the world.”

**Bloomberg BNA** (8/2, Rizzuto) also reports.

## **EPA Seeks To Extend Methylene Chloride Evaluation Remand To “Nearly Identical” Cases.**

Inside EPA (8/2) reports, “EPA is seeking to build on its successful bid for a remand of its TSCA methylene chloride evaluation in other pending court challenges to Trump-era chemical risk findings, saying the claims in that case are ‘nearly identical’ to its request to remand the separate review of 1,4-dioxane, despite environmentalists’ arguments to the contrary.”

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## **Water**

### **States Want Delay In Lead, Copper Rule Lifted.**

Bloomberg BNA (8/2, Earls) reports “Arizona, Texas, Louisiana and two other states want the D.C. Circuit to set aside and vacate the Biden administration’s order delaying the Trump-era Revised Lead and Copper Rule from going into effect.” The EPA “delayed the effective date of the rule from June until Dec. 16 while the agency completes its review.” The agency said “environmental groups, states, and other stakeholders raised a range of concerns about Trump’s rule changes, including that they fail to create incentives for public water systems to replace lead service lines.”

***Wheeler Touts Trump Trace In Infrastructure Bill.*** E&E Publishing (8/2, Northey) reports former EPA Administrator Andrew Wheeler “today touted the infrastructure package moving through Congress as building upon the Trump administration’s work to eradicate lead from drinking water.” Wheeler called “the Biden administration’s move to delay the implementation of the regulation EPA finalized last year” a “mistake” and “said he hopes the delay doesn’t also translate into a slower or stalled” lead service line “mapping effort.”

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## **ESG**

### **Sunnova Energy CFO Says Company Is Preparing To Issue Green Bond.**

Bloomberg (8/2, Eckhouse, Mutua) reports Houston-based residential solar firm Sunnova Energy International Inc. CFO Robert Lane said during the company’s earnings call last week that Sunnova has taken some of the steps needed to issue a green bond. Lane said, “Bottom line here is we are locked and loaded. ... You should expect to see us in the market very soon.” Sunnova “priced a \$212 million solar loan asset-backed security last month, which Lane said in a release should also help accelerate the issuance.” The sale “would be the first syndicated green corporate bond in the U.S. residential-solar market, according to data compiled by Bloomberg.” Sunnova “said it intends to use proceeds from green

bonds to finance or refinance existing or new eligible projects, including new home-solar systems, according to the framework.”

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## Limetree Bay Refinery

### **Limetree Bay Refinery Confirms Repair, Continuation Of Shutdown.**

Law360 ([Request Article](#)) (8/2) reports “Limetree Bay Refining LLC told a Texas bankruptcy judge Monday that it had repaired a damaged section of its St. Croix refinery,” allowing it “to commence the removal of the oil and gas trapped in the facility” and prepare “to decommission and shutter it.”

### **Limetree Bay Terminals Announces New Financing.**

The **St. Thomas Source** (8/2) reports Limetree Bay Terminals LLC “announced on Monday that it has entered into a financing agreement” with AMP Capital Investors S.A.R.L. and affiliates that will “provide Limetree Terminals’ indirect parent company, Limetree Bay Terminals Holdings II, LLC with a \$50 million incremental tranche of term loans, which amount can be upsized by an additional \$50 million at the election of AMP Capital.” Limetree Bay’s CEO Jeffrey Rinker said, “The transaction significantly enhances the company’s liquidity position allowing us to build on our strategic location and world-class facilities.” Limetree Terminals “is expected to continue to operate without interruption while Limetree Refinery undergoes its restructuring process, the company said in the press release.”

The **Virgin Islands Consortium (VIR)** (8/2) also reports.

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